



# PUBLIC NOTICE

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**Report No. SCL-00395NS**

**Friday November 18, 2022**

## **Non-Streamlined Submarine Cable Landing License Applications Accepted For Filing**

Unless otherwise specified, the following procedures apply to the applications listed below:

The applications listed below have been found, upon initial review, to be acceptable for filing. Pursuant to the Submarine Cable Landing License Act, 47 U.S.C. §§ 34-39, and Executive Order No. 10530, reprinted as amended in 3 U.S.C. § 301, each applicant seeks: (a) the grant of a cable landing license; (b) the modification of a cable landing license; and/or (c) the assignment or transfer of control of an interest in a submarine cable landing license. These applications are not subject to the streamlined processing procedures set forth in Section 1.767 of the Commission's rules, 47 CFR § 1.767.

Unless otherwise specified, filings relating to these applications must be received within 14 days of this notice. Ex parte communications between outside parties and Commission staff concerning these applications are permitted subject to the Commission's rules for "permit-but-disclose proceedings." See 47 CFR § 1.1206.

These applications are being coordinated with the Department of State and other Executive Branch agencies pursuant to section 1.767(b) of the Commission's rules, 47 CFR § 1.767(b), and consistent with procedures established with the Department of State. See Review of Commission Consideration of Applications under the Cable Landing License Act, IB Docket No. 00-106, Report and Order, 16 FCC Rcd 22167, 22192-93, paras. 51-52 (2001) (Submarine Cable Landing License Report and Order); Commission Announces Department of State's Revised Procedures for its Consideration of Submarine Cable Landing License Applications, IB Docket No. 16-155, Public Notice, DA 22-435 (rel. Apr. 19, 2022).

Pursuant to its decision in Review of Commission Consideration of Applications under the Cable Landing License Act, IB Docket No. 00-106, FCC 01-332, 16 FCC Rcd 22167 (2001), and section 1.767 of the rules, the Commission will take action upon these applications within ninety (90) days after release of this public notice, unless it determines that additional time is needed.

**People with Disabilities:** To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 1-888-835-5322 (tty). All applications listed are subject to further consideration and review, and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations, and other requirements.

## Submarine Cable Landing License

The Bahamas Telecommunications Company Limited (BTC or Applicant) has filed an application for authority to renew the cable landing license for the BAHAMAS II Cable System (Bahamas II Cable) (SCL-LIC-19960329-00128, SCL-MOD-19980303-00004) for an additional 25 years. The Bahamas II Cable's initial 25 year license expired on April 1, 2022. Since then, BTC has been operating the Bahamas II Cable pursuant to special temporary authority (SCL-STA-20220303-00010 and SCL-STA-20221005-00027). BTC is the only applicant for the renewal application and will be the only operator of the Bahamas II Cable. BTC filed an amended and restated application on August 23, 2022 and a supplemental letter on October 24, 2022.

The Bahamas II Cable connects Vero Beach, Florida to Nassau, the Bahamas, with an intermediate point at Eight Mile Rock, the Bahamas. It is currently operated on a common carrier basis. The cable system consists of five optical fiber pairs, with the capacity of each pair comprised of sixteen 100 gigabits per second (Gbps) Basic System Modules (BSMs). BTC states that the Bahamas II Cable connects with the domestic networks in the continental United States and the Bahamas and provides capacity for broadband traffic between the United States and the Bahamas. In 1996, the Commission granted a cable landing license for the Bahamas II Cable to a four-member consortium. See AT&T Corp., MCI International, Inc., The St. Thomas and San Juan Telephone Company, Inc., Telefonica Larga Distancia de Puerto Rico, Inc. See File No. S-C-L-96-003, Joint Application for a License to Land and Operate a Digital Submarine Cable System Between the United States Mainland and the Bahamas, the BAHAMAS II Cable System, Cable Landing License, 11 FCC Rcd 9188 (IB 1996). In 1998, the Commission modified the Bahamas II license to add an additional licensee. See Ursus Telecom Corp., File No. SCL-96-003(M), Application to Amend the Submarine Cable Landing License for the Bahamas II Cable System to Add Ursus Telecom Corp. as a Licensee, Modification of Cable Landing License, 13 FCC Rcd 15672 (IB 1998). The Bahamas II Cable became operational on April 1, 1997. See letter from James J.R. Talbot, Assistant Vice President-Senior Legal Counsel, AT&T Services, Inc. to Marlene H. Dortch, Secretary, Federal Communications Commission, filed in SCL-MOD-19980303-00004 (dated March 14, 2018) (available on the FCC website through the International Bureau Filing System (IBFS) by searching for SCL-MOD-19980303-00004 and accessing "Other filings related to this application" from the Document Viewing area).

The Bahamas II Cable consists of four segments (A, B, C, and D) and three landing sites (Vero Beach, Florida; Eight Mile Rock, the Bahamas; and Nassau, the Bahamas). Segment A is located in U.S. territory and consists of a cable station at Vero Beach, Florida. Segment B consists of a structure to house amplification equipment at Eight Mile Rock, the Bahamas. Segment C consists of the cable station at Nassau, the Bahamas. Segment D comprises the whole of the submarine cable linking Segments A, B, and C, and consists of Subsegments D1, D2, and D3. Segment D1 consists of five fiber pairs linking the cable station at Vero Beach with the passive branch joint, a submerged device composed of a housing and any associated equipment to serve as a junction point for the undersea cable. Segment D2 consists of five fiber pairs linking the passive branch joint to the structure at Eight Mile Rock, and five fiber pairs linking back to the passive branch joint. Segment D3 consists of five fiber pairs linking the passive branch joint to the cable station at Nassau. BTC owns 100% of the ownership interests in all Bahamas II Cable segments except for Segment A, the cable station at Vero Beach, Florida, which is owned by AT&T Corp. (AT&T). The Applicant states that CWC Bahamas Holding Limited operates BTC's day-to-day management and ultimately effectively controls BTC.

BTC requests a waiver of section 1.767(h)(1) of the Commission's rules so that AT&T is not required to be an applicant for the Bahamas II Cable landing license. Section 1.767(h)(1) requires that "[a]ny entity that owns or controls a cable landing station in the United States" shall be "applicants for, and licensees on, a cable landing license." 47 CFR § 1.767(h)(1). According to BTC, AT&T owns the cable landing station in Vero Beach, Florida, while BTC is the landing party in Vero Beach pursuant to an agreement. BTC says that it intends to contract with AT&T for the right to use collocation space in the cable landing station. BTC also intends to contract with AT&T for certain operation and maintenance services at the cable landing station, according to which AT&T will not have access to BTC's equipment, except: (i) to perform certain operation and maintenance services as per BTC's direction and instructions; or (ii) in cases of emergency. BTC states that the agreement with AT&T will have an initial term of 5 years that can be extended by BTC to 25 years. BTC asserts that under this arrangement, BTC will retain operational authority over the Vero Beach landing station and provide direction to AT&T in all matters relating to the Bahamas II Cable.

BTC would be a new licensee for the Bahamas II Cable. BTC states that original licensees AT&T, The St. Thomas and San Juan Telephone Company, Inc., and Telefonica Larga Distancia de Puerto Rico relinquished their interests in the Bahamas II Cable upon expiration of the original license. According to BTC, the fourth original licensee, MCI International, LLC, terminated its participation in the Bahamas II Cable as of September 30, 2022. BTC states that Ursus Telecom Corp., which became a licensee in 1998, has been defunct for over 10 years and no longer exists.

BTC requests an additional 25-year term for the continued operation of the Bahamas II Cable. BTC states that continued operation of the Bahamas II Cable is in the public interest as it would continue to help meet the increasing demand for voice, data and Internet traffic on routes between the United States and the Bahamas. BTC contends that the cable will continue to provide important facilities-based bandwidth on these routes and enhance service quality, increase resiliency, and decrease latency in serving these routes. BTC also adds that the Bahamas II Cable remains capable of handling the full range of emerging voice and data services and technologies, including multimedia and Internet services.

BTC proposes to operate the Bahamas II Cable on a non-common carrier basis. BTC contends that the operation of competitive cable systems demonstrates that there are other routing options and competitive alternatives to the Bahamas II Cable system for traffic between the United States and the Bahamas, and that the Bahamas II Cable is not a bottleneck facility requiring common carrier regulation. BTC notes that the ARCOS-1 and Bahamas Internet Cable System (BICS) cables both currently provide service between the United States and the Bahamas on a non-common carrier basis. BTC argues that in order to respond to the competition from other non-common carrier cables, it must change the Bahamas II Cable from common carrier to non-common carrier status and make individualized decisions with regard to the rates, terms, and conditions pursuant to which it will offer capacity. BTC plans to offer Bahamas II Cable capacity to enterprise customers pursuant to contracts that are negotiated on an individual case basis. BTC may also sell excess capacity on a wholesale basis to other carriers pursuant to individually negotiated rates, terms, and conditions tailored to their particular needs. BTC states that customers have no expectation that the Bahamas II Cable will be operated on a common carrier basis due to the competition from competing (and non-common carrier) cable systems operating between the United States and the Bahamas.

BTC is a Bahamas limited company that is 49% owned (voting and equity) by the Treasurer of the Commonwealth of the Bahamas, a Bahamas government entity, and 49% owned (voting and equity) by CWC Bahamas Holding Limited, a Bahamas holding company. The BTC Foundation holds the remaining 2% interest in BTC.

CWC Bahamas Holding Limited is 100% owned (voting and equity) by Cable & Wireless (West Indies) Limited, an English holding company,

—which is 100% owned (voting and equity) by CWI Group Limited, an English holding company. CWI Group Limited is 100% owned (voting and equity) by Sable Holding Limited, an English holding company, which is 100% owned (voting and equity) by C&W Senior Secured Parent Limited, a Cayman Islands holding company, which is 100% owned (voting and equity) by C&W Senior Finance Limited, a Cayman Islands holding company. C&W Senior Finance Limited is 100% owned (voting and equity) by Cable & Wireless Limited, an English holding company, which is 100% owned (voting and equity) Cable & Wireless Communications Limited, and English international telecommunications services company, which is 100% owned (voting and equity) by LGE Coral Holdco Limited, an English holding company, which is 100% owned (voting and equity) by Liberty CWC Holdings Limited, a Barbados holding company. Liberty CWC Holdings Limited is 100% owned (voting and equity) LILAC Services Ltd., a Bermuda holding company, which is 100% owned (voting and equity) by Liberty Latin America Ltd., a Bermuda international provider of cable and telecommunications services. The only person or entity owning more than 10% of the voting interest in Liberty Latin America Ltd. is John C. Malone, a United States citizen who owns a 26.1% voting interest. The Applicant states that there are no other individuals or entities that own 10% or greater voting or equity interests in BTC as a result of their voting interest in Liberty Latin America Ltd. The Applicant states that, to its knowledge, no other persons or entities own or control a 10% or greater interest in BTC.

The Applicant agrees to abide by the routine conditions specified in section 1.767(g) of the Commission's rules. 47 CFR § 1.767(g).

BTC has market power on the U.S.-Bahamas route and certifies that it will comply with the reporting requirements in section 1.767(l) of the Commission's rules. 47 CFR § 1.767(l).

Pursuant to Commission practice, the application is being referred to the relevant Executive Branch agencies for their views on any national security, law enforcement, foreign policy or trade policy concerns related to the foreign ownership of BTC.

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#### REMINDER:

Applicants must certify that neither the applicant nor any party to the application is subject to a denial of federal benefits by federal and/or state courts under authority granted in 21 U.S.C. § 862. See 47 CFR §§ 1.2001-.2003.

By this notice, we inform the public that submarine cable landing license applications that are part of larger transactions involving multiple Commission licenses or authorizations may involve "extraordinary circumstances" as referenced in Review of Commission Consideration of Applications under the Cable Landing License Act, Report and Order, 16 FCC Rcd 22167 (2001) and Rules and Policies on Foreign Participation in the U.S. Telecommunications Market, Report and Order and Order on Reconsideration, 12 FCC Rcd 23891 (1997), paras. 327-28, Order on Reconsideration, 15 FCC Rcd 18158 (2000). Additionally, extraordinary circumstances result where Executive Branch agencies petition the Commission to defer action on an application pending the resolution of potential national security, law enforcement, foreign policy and trade policy issues. Accordingly, these applications may not be acted on within the 90-day review period that the Commission has established as the period of time normally required to reach a decision on non-streamlined cable landing licenses. This notice shall serve as public notice to applicants that, in these circumstances, additional time may be required for Commission review and final action. No additional formal public notice will be provided routinely with respect to specific applications in the event that the applicable review period extends beyond 90 days.